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January 7, 1998

BY HANDMs. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYRe: **Ex Parte Communications in ET Docket No. 97-206**

Dear Ms. Salas:

On January 6, 1998, Lawrence Sidman and Sara Morris of Verner, Liipfert, Bernhard, McPherson & Hand, representing Philips Electronics North America Corporation ("Philips") and Thomson Consumer Electronics Inc. ("Thomson"); Thomas Patton of Philips; and David Arland and Joseph Forler of Thomson participated in a series of meetings at the Commission, all pertaining to the Commission's *Notice of Proposed Rulemaking* in its proceeding to implement Section 551 (c), (d) and (e) of the Telecommunications Act of 1996 (ET Docket No. 97-206). These persons met with: Commissioner Susan Ness and Legal Advisor Anita Wallgren and Senior Legal Advisor James Casserly; Susan Fox, Senior Legal Advisor to Chairman Kennard; Helgi Walker, Legal Advisor to Commissioner Furchtgott-Roth; Jane Mago, Senior Legal Advisor to Commissioner Powell; Rick Chesson, Legal Advisor to Commissioner Tristani; and Julius Knapp, Karen Rackley and Neal McNeil of the Office of Engineering and Technology.

The substance of these meetings reflected the arguments advanced by Thomson and Philips in their comments and reply comments filed in this proceeding. In addition, the attached two-page synopsis of Thomson's and Philips' respective comments was distributed at these meetings.

In accordance with Section 1.1206 of the Commission's Rules, an original and one copy of this letter and two written ex parte presentations submitted on behalf of Thomson and Philips are being filed with your office.

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Any questions concerning this matter should be directed to the undersigned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lawrence R. Sidman".

Lawrence R. Sidman

Attachment

cc w/out attachment: Commissioner Susan Ness

Anita Wallgren

James Casserly

Susan Fox

Helgi Walker

Jane Mago

Rick Chesson

Julius Knapp

Karen Rackley

Neal McNeil

**RECOMMENDATIONS OF
THOMSON CONSUMER ELECTRONICS AND
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION ON
FCC IMPLEMENTATION OF THE "V-CHIP"**

The broad acceptance and use of V-chip program blocking technology will depend entirely on whether parents find that the technology: (a) is easy to use; and (b) works as it should. To ensure that these two overarching prerequisites are met and that the V-chip is capable of living up to its full potential, Thomson and Philips recommend the following:

The Commission should formally approve both an industry ratings system and final technical rules for manufacturers as quickly as possible.

It is absolutely essential that the Commission formally approve an industry ratings system *and* adopt final technical rules for manufacturers as quickly as possible, hopefully during January 1998. Without the certainty provided by FCC adoption of a television ratings system *and* the technical standards, manufacturers cannot reasonably begin the task of moving televisions equipped with V-chip program blocking technology off the drawing boards and into American living rooms. Once these actions have been taken, manufacturers will need at least 18 months to design, develop, test and produce V-chip equipped receivers.

The Commission should delay its proposed implementation timetable for V-chip program blocking by one year.

The Commission's proposed timetable for implementation of program blocking capability is simply impossible for manufacturers to meet. Indeed, every single party with any technical expertise in television manufacturing agrees: if adopted, the Commission's implementation timetable would seriously risk the V-chip's failure in the marketplace and its rejection by consumers. Thomson and Philips urge the Commission to delay its proposed implementation schedule by 12 months, *i.e.*, half the product models be equipped with V-chip technology by July 1, 1999, and the balance by July 1, 2000, to give manufacturers sufficient time to develop, test and produce products in a manner that will be most conducive to the V-chip's success.

A single ratings system should be adopted because the unacceptable complexity resulting from the existence of multiple ratings systems could quickly torpedo the V-chip's broad use and acceptance by parents.

The use of multiple ratings systems would add significant complexity to a television receiver's user interface. It is by no means certain that parents will be willing to take the time needed to understand and program a receiver that is designed to read even a single ratings system. Faced with the compounded difficulty of having to navigate among several systems, a technological gauntlet which would try the patience of most consumers, many, if not most parents, may abandon the technology altogether. At the end of the day, the broader use of a single rating system must outweigh the questionable benefits of multiple ratings systems.

The mandated use of "positive-option" ratings such as that proposed by Tim Collings et. al., while intriguing and potentially desirable to some parents, falls far outside the scope of Section 551's requirement that television receivers be "equipped with a feature designed to enable viewers to *block* display of all programs with a common rating." In fact, the Collings system is an enhancement that works to *unblock* programming that has already been blocked. While the development of such enhancements should be encouraged by the Commission, their required use is not supported by the plain language or legislative history of Section 551. The selection of V-chip enhancement technologies should be left to the marketplace.

Manufacturers Should Not Be Required to Design Receivers to Accommodate Ratings Systems Developed in the Future.

Once installed, V-chip circuitry in an analog television receiver cannot be reprogrammed or "retrofitted" to accommodate a different or future ratings system. As a result, were modifications to be made to the ratings system, they could not be incorporated into any sets that had already reached the marketplace, rendering these receivers obsolete for the purpose of blocking programming. Thus, although EIA-608 permits the addition of new ratings, if the existing rating system is later replaced by a new system, millions of television receivers already in consumers' homes will not be able to decode and display the new ratings. Manufacturers require the certainty that their products are not doomed to obsolescence. Consumers deserve the certainty of knowing the television receiver they purchase with program blocking capability will continue to have that function as long as they own the set. The Commission must take care to ensure that the ratings system it adopts will remain constant for the foreseeable future so that both sets of expectations can be fulfilled.

The design of television receiver user interfaces should be left to the marketplace.

The design and functionality of user interfaces is critical to competitive differentiation among receivers of various manufacturers. Indeed, manufacturers focus with laser-like intensity upon user interfaces because they understand that they are crucial to consumer acceptance of their product. User interfaces provide companies with the opportunity to innovate and develop new features capable of greatly enhancing performance or providing new functionality. Economic self-interest will drive manufacturers to make their user interfaces simple, easy-to-understand and sufficiently child-proof, yet not adult-proof to fulfill parental expectations.

The Commission should apply the same V-chip rules to digital and analog TV receivers.

The one-year extension of the proposed timetable for compliance, the avoidance of multiple or dynamic ratings and the absence of mandated user interface standards should be common for NTSC and DTV. A DTV standard akin to EIA-608, ATSC T3/S8 Document 193, "Program System Information Protocol for Terrestrial Broadcasting and Cable," currently is being balloted by the members of the ATSC, and proposed rules should follow its adoption.